

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(Hazelwood Avenue)	*	OFFICE OF
14 th Election District		
6 th Council District	*	ADMINISTRATIVE HEARINGS
Jason and Tania Weiner	*	FOR BALTIMORE COUNTY
<i>Legal Owners</i>		
Petitioners	*	Case No. 2019-0516-SPHA

* * * * *

**CORRECTED
OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of Jason and Tania Weiner, legal owners (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to confirm that a lot merger has not occurred with the adjacent parcel at 6401 Hazelwood Avenue. A petition for variance seeks to permit a lot width of 50 ft. in lieu of the required 55 ft. minimum lot width. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1. The property is zoned D.R. 5.5.

The property owner, Jason Weiner, appeared in support of the requests. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. The Department of Planning (DOP) reviewed the plan and performed a site inspection. They have no objection to the requested relief. No other substantive Zoning Advisory Committee (ZAC) comments were received from any of the County reviewing agencies.

SPECIAL HEARING

Mr. Weiner testified that he recently bought the subject vacant lot at 6403 Hazelwood Avenue, and the adjoining residence at 6401 Hazelwood Avenue. He is rehabilitating the 6401

residence and plans to build a new residence on the 6403 lot. He intends to then sell both properties. He testified that to his knowledge the lot at 6403 has never had any structure on it and it has never been used by the owners of 6401 for any purpose. He submitted photos (Petitioner's Exhibit 2) of the site that show there are presently no structures on 6403, and no evidence of any prior structures. The SDAT records show that the vacant 6403 parcel is valued at \$36,500.00, which indicates that it is considered a separate buildable lot. There is no evidence that there has been merger between 6401 and 6403 Hazelwood Avenue.

VARIANCE

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

The parcel at 6403 Hazelwood Avenue is rectangular and the southwest corner backs to Golden Ring Road. The adjoining residences are on triangular lots. There is a large tree in the middle of the lot. The property is therefore somewhat unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because he would be unable to build a residence on the lot. Finally, I find that the variance can be granted in harmony with the spirit and intent of the BCZR, and in such manner as to grant relief without injury to the public health, safety and general welfare. As the DOP notes, “[t]he subject site is located in the Rosedale community where the majority of the lots were recorded over 50 years ago. Many of the lots in the area are 50 feet wide.” The site plan shows that the other residences on the block are also built

on 50 foot lots. As such, I do not believe granting the petition will have any adverse impact upon the community.

THEREFORE, IT IS ORDERED this 3rd day of **March, 2020**, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the BCZR to confirm that a lot merger has not occurred with the adjacent parcel at 6401 Hazelwood Avenue, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit a lot width of 50 ft. in lieu of the required **55** ft. minimum lot width, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed _____
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlw